REMARKS

The present Amendment amends claims 1-5, 7, 9 and 10, and leaves claims 6 and 8 unchanged. Therefore, the present application has pending claims 1-10.

In paragraph 2 of the Office Action the Examiner objected to the Information Disclosure Statement submitted on January 7, 2008 as allegedly failing to comply with 37 CFR §1.98(a)(3) because a concise explanation of the relevance and each of the references cited that were is not in the English language was not provided. Applicants are submitting a copy of the Form PTO-1449 which lists each of the references not considered by the Examiner with an English language explanation of the relevance of each of said references. The Examiner is respectfully requested to indicate consideration of said references in the forth coming Office Action.

Claim 10 stands rejected under 35 USC §101 as allegedly being directed to non-statutory subject matter. Particularly, the Examiner alleges that claim 10 is directed to software per se. Amendments were made to claim 10 to cause the claim to be directed to an article of manufacture, namely a computer readable recording medium, which is one of the statutory classes of patentable subject matter permitted under 35 USC §101. Therefore, this rejection is overcome and should be withdrawn.

Claims 1, 3-5 and 8-10 stand rejected under 35 USC §102(e) as being anticipated by Colle (U.S. Patent Application Publication No. 2004/0158568 A1); claim 2 stands rejected under35 USC §103(a) as being unpatentable over Colle in view of Bigus (U.S. Patent No. 7,124,119); claim 6 stands rejected under 35 USC §103(a) as being unpatentable over Colle in view of

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Hinsley (GB 2293675 A); and claim 7 stands rejected under 35 USC §103(a) as being unpatentable over Colle in view of Tanaka (U.S. Patent Application Publication No. 2003/0074387). These rejections are traversed for the following reasons. Applicants submit that the features of the present invention as now recited in claims 1-10 are not taught or suggested by Colle, Bigus, Hinsley or Tanaka whether taken individually or in combination with each other as suggested by the Examiner. Therefore, Applicants respectfully request the Examiner to reconsider and withdraw these rejections.

Amendments were made to the claims to more clearly describe features of the present invention as recited in the claims. Particularly, amendments were made to the claims to recite that the present invention is directed to a job scheduling management method for managing schedules of jobs allocated to computers connected through a network, a job scheduling management computer and a job scheduling management program.

According to the present invention the job scheduling management method includes monitoring a performance state of a resource of a computer, included in the computers, to which the jobs have been allocated.

Further, according to the present invention the performance state includes information indicating at least one of a usage rate of a Central Processing Unit (CPU) included in the computer, an amount of memory being used in the computer, an amount of empty space on a disk storage device included in the computer, an average processing time for the disk storage device, and an average query processing time for a database application being executed by the computer.

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Still further according to the present invention the job scheduling management method additionally includes determining if the performance state meets a predetermined condition, if the performance state meets the predetermined condition, detecting a job, of the jobs allocated to the computer, that is uncompleted at a timing when the predetermined condition is met, detecting another computer that is available to execute the detected uncompleted job based on information concerning resources required for executing the detected uncompleted job, and allocating the detected uncompleted job to the detected other computer.

The above described features of the present invention now more clearly recited in the claims are not taught or suggested by any of the references whether said references are taken individually or in combination with each other as suggested by the Examiner. Particularly, the above described features of the present invention as now more clearly recited in the claims are not taught or suggested by Colle, Bigus, Hinsley or Tanaka whether said references are taken individually or in combination with each other as suggested by the Examiner.

Colle discloses in paragraph [0114] thereof that the conditions that cause the generation of an alert are determined depending upon how much the service time exceeds a predetermined end time. This teaching of Colle is not in any way related to the monitoring of a resource of the computer that may perform the requested job, and detecting whether the monitored resource exceeds a predetermined threshold or condition as in the present invention. This teaching of Colle is also not in any way related to the monitoring of a resource of the computer where the resource could be at least one of a usage

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rate of a Central Processing Unit (CPU) included in the computer, an amount of memory being used in the computer, an amount of empty space on a disk storage device included in the computer, an average processing time for the disk storage device, and an average query processing time for a database application being executed by the computer as in the present invention. Attention is directed to Fig. 9 of the present application.

The unique advantages of the present invention as described above is that the present invention provides a job scheduling function which makes the threshold check possible before job execution as well as at the time of job execution. The present invention permits determining whether or not the need for execution of a job as well as a job execution time can be based on a resource required for job execution, such as a CPU and an available capacity of a disk storage device. These features of the present invention as illustrated in Figs. 10 and 11 of the present application.

The above described features of the present invention as recited in the claims and the above described advantages of the present invention are not taught nor are they possible in Colle.

Thus, Colle fails to teach or suggest monitoring a performance state of a resource of a computer, included in the computers, to which the jobs have been allocated as recited in the claims.

Further, Colle fails to teach or suggest that the performance state includes information indicating at least one of a usage rate of a Central Processing Unit (CPU) included in the computer, an amount of memory being used in the computer, an amount of empty space on a disk storage device included in the computer, an average processing time for the disk storage

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device, and an average query processing time for a database application being executed by the computer as recited in the claims.

Therefore, since Colle fails to teach or suggest the features of the present invention as now more clearly recited in the claims, Colle does not anticipate nor render obvious the claimed invention. Accordingly, reconsideration and withdrawal of the 35 USC §102(e) rejection of claims 1, 3-5 and 8-10 as being anticipated by Colle is respectfully requested.

The above described deficiencies of Colle are not supplied by any of the other references of record. Particularly, the above described deficiencies of Colle are not supplied by Bigus, Hinsley or Tanaka when combined with Colle. Therefore, combining the teachings of Colle with one or more of Bigus, Hinsley and Tanaka still fails to teach or suggest the features of the present invention as recited in the claims.

Bigus is directed to an agent configured to detect a situation (e.g., problem or problems) and take steps to preserve a context in which the situation occurs. Bigus teaches that the agent may also be configured to identify one or more courses of action (e.g., solutions) to be taken in response to the situation. In one embodiment as per Bigus, a user trains an agent to take a particular action upon detecting a particular problem. However, the present invention monitors a resource of the computer which may perform the requested job, and detects whether the monitored resource exceeds a predetermined threshold or condition. These features are not taught or suggested by Bigus.

Hinsley discloses receiving an instruction to perform a process at a given node and performing the process at the node or another node

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depending on whether the local memory space or computing power is available at the node. However, the present invention allows for the use of an amount of empty space on a disk storage device included in the computer, an average processing time for the disk storage device, and an average query processing time for a database application being executed by the computer. These features are not taught or suggested by Hinsley.

Tanaka discloses extracting an execution time of a job based on a clock number of a CPU. However, the present invention monitors a resource of the computer which may perform the requested job, and detects whether the monitored resource exceeds a predetermined threshold or condition. These features are not taught or suggested by Tanaka.

Therefore, since each of Colle, Bigus, Hinsley and Tanaka fails to teach or suggest the features of the present invention as now more clearly recited in the claims, combining these references in the manner suggested by the Examiner in the Office Action fails to render obvious the claimed invention. Accordingly, reconsideration and withdrawal of the 35 USC §103(a) rejections of claims 2, 6 and 7 as being unpatentable over Colle, Bigus, Hinsley and Tanaka is respectfully requested..

The remaining references of record have been studied. Applicants submit that they do not supply any of the deficiencies noted above with respect to the references utilized in the rejection of claims 1-10.

In view of the foregoing amendments and remarks, Applicants submit that claims 1-10 are in condition for allowance. Accordingly, early allowance of the present application based on claims 1-10 is respectfully requested.

To the extent necessary, Applicants petition for an extension of time

under 37 CFR 1.136. Please charge any shortage in fees due in connection

with the filing of this paper, including extension of time fees, or credit any

overpayment of fees, to the deposit account of MATTINGLY, STANGER,

MALUR & BRUNDIDGE, P.C., Deposit Account No. 50-1417 (500.43289X00).

Respectfully submitted,

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